That a contractor whose remuneration is to come entirely from a specific fund may recover payment from the municipality if, through some fault of such municipality, the fund can no longer be created, is generally granted. *Ft. Dodge E. L. & P. Co.* v. *City of Fort Dodge,* 115 Ia. 568. And if the municipality refuses or unreasonably delays in providing the fund, courts are well agreed that the contractor may resort to mandamus to compel action. *Reilly* v. *Albany,* 112 N. Y. 30; *Wren* v. *City of Indianapolis,* 96 Ind. 206. But as to whether the contractor may recover damages or the cost of the work from the municipality in case of negligent delay or refusal, the decisions are conflicting. The majority hold, in accordance with the principal case, that the municipality is then liable. *Steffen* v. *City of St. Louis,* 135 Mo. 44; *Barber Asphalt Co.* v. *City of Denver,* 72 Fed. 336; *Little* v. *City of Portland,* 26 Ore. 235; *City of Atchison* v. *Byrnes,* 22 Kan. 65. The contrary view is held in *German-American Savings Bank* v. *Spokane,* 17 Wash. 315; *City of Alton* v. *Foster,* 207 Ill. 150; and *People ex rel Ready* v. *Mayor of Syracuse,* 144 N. Y. 63.

MUNICIPAL CORPORATIONS—STREET IMPROVEMENTS—MINIMUM WAGE.—The City of Spokane passed an ordinance fixing a minimum of $3.00 per day of eight hours for common labor engaged in city improvements. A contract for street improvements was made on this basis and after the work was done an abutter objected to the assessment. *Held,* that the property-owner might have the assessment lowered to the extent that the higher wage increased the cost. *Gerlach* v. *City of Spokane* (Wash. 1912) 124 Pac. 121.

The increased agitation for minimum wage laws, more than the nicety of the legal point involved, makes this case interesting. Former cases on city ordinances affecting the wage question have held these illegal. *Malette* v. *City of Spokane,* 123 Pac. 1005; *State* v. *Norton,* 7 Ohio Dec. 354; *Frame* v. *Felix,* 167 Pa. 47, 27 L. R. A. 802. Ordinances or stipulations in contracts, imposing limitations upon the hours of labor per day, on the nationality of laborers to be engaged, or requiring that none other than union labor be employed have been likewise held invalid. *Glover* v. *People,* 101 Ill. 545; *Atlanta* v. *Stein,* 111 Ga. 789; *Chicago* v. *Hulbert,* 206 Ill. 346. Statutes with like provisions are generally considered objectionable. *People* v. *Coler,* 166 N. Y. 1, 10; *People* v. *Grout,* 179 N. Y. 417; *Cleveland* v. *Clements Bros. Const. Co.,* 67 Ohio St. 197; *Street* v. *Varney Electrical Sup. Co.,* 160 Ind. 338. However, *Atkin* v. *Kansas,* 191 U. S. 207, and *State* v. *Wilson,* 65 Kan. 237, held that statutes restricting the hours of labor on State and city works were constitutional and even criminally enforcible.

PRINCIPAL AND AGENT—LIABILITY OF AGENT FOR DISCLOSURE BY SERVANT—WARRANTY OF SECRECY—Plaintiff carried on business as a private inquiry agent, and was employed by defendant, a married woman living apart from her husband, to watch upon the latter. One of plaintiff's employees who had been employed to watch defendant's husband, having been discharged by plaintiff, informed plaintiff's husband that he was being watched. In ignorance of this fact, defendant continued to employ plaintiff, who was also

unaware of the disclosure to the defendant's husband. In an action to recover balance of money due for such services, defendant set up the breach of an implied warranty of secrecy. *Held,* plaintiff not barred from recovery. *Easton* v. *Hitchcock* (Eng. 1912) 81 L. J. (K. B.) 395.

The contention in this case was whether or not there was in the plaintiff's contract of employment a guaranty warranting the secrecy of the servants in her employment, and of those who had been, but had left her employment. HAMILTON, J., in delivering the opinion of the court, says, "I do not think that the circumstances of this case are such as to justify us in inferring such a warranty at least as regards the period after Davis had ceased to be the plaintiff'sservant. I say nothing as to whether such a warranty exists while the service continues." LUSH, J., in a concurring opinion, states the distinction more forcibly: "If these services were rendered useless and of no benefit to the defendant by reason of default of the plaintiff herself, or by reason of the conduct of the person for whose conduct she was responsible, of course she could not use for remuneration in respect of such services thus rendered useless. * * * They were rendered useless by a person for whom the plaintiff was not responsible, as he was not acting within the scope of his employment." The decision is a novel one, and no precedents are cited, but the case seems to be rightly decided. The decided weight of authority is to the effect that a warranty will not be implied by usage or custom where none is implied by the common law. *Baird* v. *Matthewe,* 6 Dana 129; *Dodd* v. *Farlowe,* 11 Allen 426, 87 Am Dec. 726; *Barnard* v. *Kellogg,* 10 Wall. 383, 19 L. Ed. 987. "Generally speaking an implied warranty may arise as to any subject relating to the property sold, such as the title, merchantibility, fitness for the purpose intended, and genuineness of the article sold. So, too, there is a general warranty implied that goods to be manufactured shall fill the terms of the contract. There is not, however, as a rule any implied warranty of quality, or value, or even quantity." 35 CYC. 393. The warranty discussed in the principal case seems analogous to the common law warranty of quality which will not ordinarily be implied. A principal is of course, not liable for the torts of an agent committed after the termination of the agency relation. *Johnson* v. *Martin,* 11 La. Ann. 27, 66 Am. Dec. 193.

PROCESS—SUMMONS—PRIVILEGE OF NONRESIDENT PLAINTIFF.—The defendant, a nonresident, was attending court as a material witness in a suit in which he was plaintiff, and before he had an opportunity to leave the State for his home was served with summons in an action against him by the defendant in the first suit. *Held,* such service was invalid. *Roberts* v. *Thompson* (1912) 134 N. Y. Supp. 363.

The court said, "Our courts should protect a nonresident coming into this State to attend upon litigation here, whether as plaintiff or defendant, against being required to engage in other litigation here against his will." In accord with the principal case are the following: *Minnich* v. *Packard,* 42 Ind. App. 371; *In re Healey,* 53 Vt. 694; *Morrow* v. *Dudley & Co.,* 144 Fed. 441; *Halsey* v. *Stewart,* 4 N. J. Law 366; *Leatherby* v. *Shaver,* 73 Mich. 500; *Gregg* v. *Sumner,* 21 Ill. App. 110. The New York Court had previously held in